

Assembly Bill No. 1476

CHAPTER 698

An act to add Title 17 (commencing with Section 3272) to the Civil Code, relating to computer liability.

[Approved by Governor October 6, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1476, Dutra. Year 2000 liability.

Existing law provides that any person that discloses information regarding the Year 2000 Problem, as defined, or any potential solutions to the problem are not liable for damages in any tort action brought against that person regarding the Year 2000 Problem, except as specified.

This bill would provide that no state statute may be construed to limit damages or liability, afford greater protection to defendants in Year 2000 Problem actions, or provide a greater degree of protection from joint or several liability than is afforded a specified federal law regarding limits upon liability for Year 2000 Problems, except as specified. The bill would prohibit a state agency from imposing a civil fine on a small business for a violation of an administrative rule or regulation or noncriminal statute as a result of a Year 2000 Problem suffered by the small business if specified conditions are met. The bill would provide for these provisions to become inoperative on July 1, 2001.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Year 2000 Problem, characterized by the failure of computers to function because of an inability to recognize dates after December 31, 1999, poses a substantial risk to the welfare of the citizens, businesses, and State of California.

(b) Massive efforts are underway in both the public and private sectors to prepare all "mission critical" computer systems to recognize the year 2000, thereby protecting against computer failures that could jeopardize our public safety, our economic health, and disrupt the life of every Californian.

(c) Due to the risks and costs associated with the Year 2000 Problem it is necessary for the state to minimize the number of variables involved in the Year 2000 Problem compliance effort for the state, its citizens, and businesses.

SEC. 2. Title 17 (commencing with Section 3272) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 17. YEAR 2000 PROBLEM LIABILITY

3272. It is the intent of the Legislature to clearly define the legal standards that relate to the Year 2000 Problem and the extent to which state statute conforms to Public Law 106-37 of the United States Code.

3272.1. For purposes of this title, the following definitions shall apply:

(a) “Year 2000 Problem” has the same meaning as that set forth in subdivision (a) of Section 3269.

(b) “Public entity” means the state, county, city, special district or other political subdivision, therein.

(c) “Small business” means any unincorporated business, partnership, corporation, association, or organization with fewer than 50 full-time employees.

(d) “Civil fine” means any civil fine or penalty or any administrative fine, penalty, or late fee, not including interest.

3272.2. Except as provided by this title, no provision of state statute shall be construed to limit damages or liability, afford greater protection to defendants in Year 2000 Problem actions, or provide a greater degree of protection from joint or several liability than is afforded by Public Law 106-37 of the United States.

3272.3. (a) Except as provided by this section, no state agency shall impose any civil fine on a small business for a violation of an administrative rule or regulation or a noncriminal statute as a result of a Year 2000 Problem suffered by the small business if both of the following conditions are met:

(1) The rule or regulation in question has not been violated by the small business within the preceding three years.

(2) The small business has made a good faith effort to prevent, and effectively remediate, potential Year 2000 Problems.

(b) Except as provided by this section, no state agency shall impose any civil fine on a small business for a violation of a state rule or regulation as a result of a Year 2000 Problem that occurred as a result of efforts to prevent the disruption of critical functions or services that could result in harm to life or property.

(c) Subdivisions (a) and (b) shall only apply if the small business has done all of the following:

(1) Upon identification of a violation, initiated reasonable and prompt measures to correct the violation.

(2) Submitted notice to the appropriate state agency of a violation within five business days of the initial identification of the violation.

(3) The small business corrected the violation not later than one month after initial notification to the appropriate state agency.

(d) Subdivisions (a) and (b) shall not apply to violations if an agency determines any of the following:

(1) That a failure to comply with rules or regulations resulted in actual harm, or constitutes an imminent threat, to public health or safety.

(2) That a failure to comply with rules or regulations resulted in actual harm, or constitutes an imminent threat, to the environment.

(3) That a failure to comply with rules or regulations resulted in a substantial financial injury to any individual or organization.

(e) Not later than January 31, 2000, and until December 31, 2000, each state agency shall establish a point of contact within the agency to act as a liaison between the agency and small businesses with respect to the duties prescribed by this section.

(f) This section shall not apply to violations caused by a Year 2000 Problem occurring after December 31, 2000.

3272.4. Nothing in this title shall create a new cause of action, and except as otherwise explicitly provided in this title, nothing in this title shall expand any liability otherwise imposed under state law.

3272.7. Nothing in this title shall supersede any provision of Title 17 (commencing with Section 3269) of the Civil Code and Title 1 (commencing with Section 1) of the Government Code, or abrogate any rights, obligations, limitations on damages applicable to public entities, or remedies applicable to public entities under existing law.

3272.9. This title shall become inoperative on July 1, 2001.

